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C O N F I D E N T I A L SECTION 01 OF 02 SARAJEVO 001789

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DEPARTMENT FOR EUR (JONES) AND EUR/SCE (HYLAND, FOOKS,
STINCHCOMB), INL (MARNEY); NSC FOR HELGERSON; OSD FOR BEIN;
DEPARTMENT OF JUSTICE FOR OPDAT (ALEXANDRE)

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TAGS: [PGOV](#) [PREL](#) [PINR](#) [PHUM](#) [KDEM](#) [KJUS](#) [KCRM](#) [BK](#)
SUBJECT: BOSNIA: RS GOVERNMENT ANNOUNCES PLANS TO APPEAL
STATE COURT'S TEMPORARY SEIZURE ORDER

REF: SARAJEVO 1738 AND PRIOR

Classified By: CDA JUDITH B. CEFKIN FOR REASONS 1.4 (B) AND (D)

¶1. (C/NF) On November 20, contacts at the State Prosecutor's Office told us that the RS government has not yet complied with the temporary seizure order that was requested by the State Prosecutor's Office for its preliminary investigation into corruption associated with RS government building and other contracts. Although the State Investigative and Protective Agency (SIPA) investigators who delivered the temporary seizure orders to the various RS government ministries have heard informally that the RS government plans to submit all the requested documents on November 26, RS officials have made such promises in the past which they have not fulfilled. The SIPA officials also heard that the RS government plans to appeal the State Court's decision to grant the temporary seizure order with the State Court appeals chamber on November 25. (Note: The RS government's appeal will not relieve it of its obligation to comply with the temporary seizure order. End Note)

¶2. (U) On November 21, the press reported that RS Minister of Justice Dzerard Selman had publicly announced the RS government's plans to appeal the State Court's decision to grant the State Prosecutor's request for a temporary seizure order. Minister Selman reiterated the RS government's position that it is the RS judicial authorities, not the State Court and the State Prosecutor's Office, that have jurisdiction in the matter. He detailed the government's position in a lengthy October 18 letter to the State Prosecutor's Office that was released by his ministry to the press. In the letter, Minister Selman maintained that the State Prosecutor's Office did not establish the grounds on which it claimed jurisdiction in the matter.

¶3. (C) In his letter, Minister Selman, described the RS government as trying to follow the rule of law. He said that the RS had raised legitimate questions about the State Prosecutor's jurisdiction, and had repeatedly tried to cooperate with the State Prosecutor's Office, which had rebuffed its efforts. Minister Selman ignored the fact that 1) it is the State Court and ultimately the BiH Constitutional Court that determines jurisdiction, not the RS; and, 2) The State Prosecutor's Office is not obliged to share details about its investigation with RS authorities.

¶4. (U) Also on November 21, the press reported that PM Dodik

had publicly announced his government's intention to file charges against foreign prosecutors working on the investigation, the judge that approved the temporary seizure order, and other individuals involved in the process. They would be charged with engaging in a "criminal enterprise against the RS." Dodik reiterated the RS government charge that the investigation by the State Prosecutor's Office is a politically-motivated plot against the RS. He said that the State Prosecutor's Office was carrying out the orders of the Office of the High Representative or "some other structures." That evening, two television channels reported that the RS government plans to file charges against the Deputy High Representative, the foreign prosecutor involved in the case, Acting Chief Prosecutor Milorad Barasin, an FTV reporter based in Banja Luka, and an NGO representative.

¶5. (U) In response to these developments, the Office of the High Representative (OHR) issued a statement that evening pointing out that PM Dodik had made many unfulfilled promises regarding this matter, including those he had recently made to the Peace Implementation Council. We also issued a statement in support of OHR that evening. The text is as follows:

The US Government fully supports the OHR's call for Prime Minister Dodik to comply completely and unconditionally with any court order to submit documentation to the State Prosecutor's Office, as he fully agreed to do at the PIC meeting in Brussels.

The rule of law must be respected. PM Dodik's attacks on the

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institutions of justice and on local and international officials designed with the specific intent to obstruct the rule of law and delay the legal process are unacceptable, outrageous, and undermine the credibility of RS institutions.

CEFKIN